

# TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904  
Telephone: (207) 475-1329 Fax: (207) 439-6806

February 9, 2015

Council Chambers

Kittery Town Council  
Regular Meeting  
7:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes
8. Interviews for the Board of Appeals and Planning Board
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.

The Kittery Town Council moves to receive an update from the Superintendent of Sewer Services on the sewer extension project.

## 10. PUBLIC HEARINGS

## 11. DISCUSSION

- a. Discussion by members of the public (three minutes per person)
- b. Response to public comment directed to a particular Councilor
- c. Chairperson's response to public comments

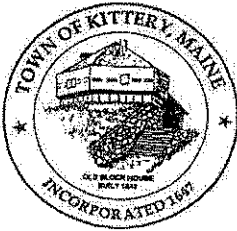
## 12. UNFINISHED BUSINESS

## 13. NEW BUSINESS

- a. Donations/gifts received for Council disposition
- b. (020115-1) The Kittery Town Council moves to approve the disbursement warrants.

14. COUNCILOR ISSUES OR COMMENT
15. COMMITTEE AND OTHER REPORTS
  - a. Communications from the Chairperson
  - b. Committee Reports
16. EXECUTIVE SESSION
17. ADJOURNMENT

Posted: February 5, 2015



# TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

[ncolbertpuff@kitteryme.org](mailto:ncolbertpuff@kitteryme.org)

Nancy Colbert Puff  
Town Manager

## Town Manager's Report to the Town Council February 9, 2015

1. **Sewer Extension Project Bids** – On the agenda this evening is an update on the Sewer Extension project, and a proposal for moving forward while remaining on budget. This proposal includes the possibility of removing a portion of the extension on Stevenson Road, which may affect 11 potential customers.
2. **Kittery Community Center (KCC) Flooding** – We continue to work with the project architect, HVAC engineer, and our maintenance contractor to diagnose and develop a long-term solution for the problems with the unit ventilator system at the KCC.
3. **Kittery Foreside Committee (KFC)** – In your packet is a chronology of the Kittery Foreside Committee (KFC) prepared by Town Planner Chris DiMatteo. It appears clear, from this information, that the original KFC was disbanded at Council's 9/27/2005 meeting upon completion of its mission. In light of the continuing existence of the KFC in Title 16, the Council referred the item to the Planning Board, and suggested they establish the KFC Design Review Committee that would serve to make advisory recommendations to it, and evaluate its operation after a one-year period. Further, you will see Mr. DiMatteo's recommendation to the Planning Board, that in light on no existing successor Committee, that the Board consider engaging the services of a professional peer review firm to advise the Board with regard to compliance with design standards.

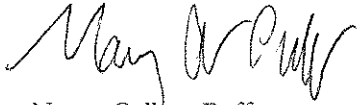
I am aware the Council is receiving requests to re-establish the KFC in some form, in reaction to a proposed development on Old Armory Way. In light of the chronology, the Planner's recommendation, and the Town Attorney's concerns with the ordinance outlined in his 2005 letter to the then CEO, Heather Ross, I recommend the Council allow the Planning Board to work on the broad issue of the KFC composition and ordinance language, and in the interim, the Planning Board can decide whether to request a peer review for design standards.

4. **Portsmouth Naval Shipyard (PNSY) Traffic Issues** – I met again with representatives from PNSY and the Southern Maine Planning and Development Commission (SMPDC) to discuss upcoming/on-going transportation projects that affect traffic in the area, as well as to discuss how PNSY's approach to traffic mitigation in Kittery. I also am in contact with PNSY to determine a date when their representative can appear before Council to discuss the same.
5. **Road Inventory and Evaluation RFP** – We received three responses (from Attar Engineering, the BETA Group, and CMA Engineers) to our RFP and are in the process of evaluating them.

6. **Fire Department Inclement Weather Special Needs** – The Fire Department has recently been recognized in a letter to the editor in the Portsmouth Herald for their success in implementing a “check in” process for people who may need assistance during storm events. I want to remind Kittery residents they can be added to the list by filling in a form located on our web site at the Fire Department page.

As always, if you have any questions or concerns prior to Monday’s evening’s meeting, please do not hesitate to contact me. Thank you.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Nancy Colbert Puff". The signature is fluid and cursive, with the first name "Nancy" being the most prominent.

Nancy Colbert Puff

# UNAPPROVED MINUTES

## KITTERY TOWN COUNCIL

January 28, 2015

COUNCIL CHAMBERS

1. Call to Order

Chairperson Thomson called the meeting to order at 7:00 P.M.

2. Introductory

Chairperson Thomson read the introductory.

3. Pledge of Allegiance

Chairperson Thomson led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Jeffrey Thomson, Councilors Russell White, Frank Dennett, Chuck Denault, Jeffrey Pelletier, Judy Spiller and Ken Lemont.

5. Agenda Amendment and Adoption –

Chairperson Thomson stated he would like to move item 13b to item 9 after the Finance Director's report.

6. Town Manager's Report –

Town Manager Puff noted that the KCC had some flood damage due to a burst pipe. She continued the cause was the same as the previous pipe damage and they had started to diagnose the problem.

Town Manager Puff stated relative to the credibility allegations against the Police Chief, that she had nothing new to report, but was making sure that it was not effecting Kittery's obligations.

Town Manager Puff stated they were holding a customer service training for employees the following day at the KCC and some offices would be closed.

Town Manager Puff indicated they were finalizing a hire for the utility bookkeeper and assistant tax collector.

Town Manager Puff noted they had solicited an RFP to help with the Spruce Creek watershed restoration project and evaluation of the road system.

## UNAPPROVED MINUTES

28 Town Manager Puff noted the York County Managers was putting together an advocacy  
29 group for legislature relevant to York County.

30 Town Manager Puff thanked DPW, fire department and police department for their hard  
31 work during the blizzard.

32 Town Manager Puff indicated she had met with Lee Perkins, Library Director, to discuss  
33 getting a group together to talk about how a new library effort might unfold and that Ms. Perkins  
34 was agreeable with that idea.

35 Town Manager Puff stated that Council would be meeting with the Eliot Selectman on  
36 March 2<sup>nd</sup> to discuss issues and concerns.

37 7. Acceptance of Previous Minutes –1/12/15

38 The minutes of 1/12/15 were accepted as amended.

39 8. Interviews for the Board of Appeals and Planning Board – None

40 9. All items involving the town attorney, town engineers, town employees or other town  
41 consultants or requested officials –

42 (010315-1) The Kittery Town Council moves to discuss and give guidance to the  
43 Finance Director regarding the Fire Truck Transfer repayments.

44 Finance Director Cindy Saklad came to the podium and stated they had discovered the  
45 schedule for repayment for the fire truck loan was being repaid to the public safety impact fee  
46 account. After meeting with the fire chief, it was determined that account did not need to be  
47 repaid and that there were other errors in the schedule. She continued that Council had closed  
48 some accounts that were supposed to be being repaid and as those accounts no longer existed, the  
49 payments had been suspended. Ms. Saklad provided a report on how she thought the funds  
50 should be paid back.

51 **COUNCILOR DENNETT MOVED TO SCHEDULE A PUBLIC HEARING ON**  
52 **THE REPAYMENT SCHEDULE FOR THE FIRE TRUCK LOAN ON FEBRUARY 23,**  
53 **2015, SECONDED BY CHAIRPERSON THOMSON.**

54 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
55 **7/0.**

56 (010315-4) The Kittery Town Council moves to receive and discuss the Kittery Port  
57 Authority's Self-Assessment report.

## UNAPPROVED MINUTES

Chairperson Thomson noted the KPA had some hard times over the past couple of years and it was looking for a two year period to prove its ability to manage the waterfront and develop a more comprehensive plan for its operations. He continued that they had provided Council with a detailed report and revised by-laws. Councilor Lemont asked if they were looking to change the appointment process. Kelly Philbrook, Chair of the KPA, responded she would like to rotate the responsibility to conduct interviews so that everyone is participating in the process. She continued they had decided to keep the current procedure intact until the Town finalized their changes to appointment procedures. Councilor Lemont asked if they had trouble with getting members to help out. Ms. Philbrook responded that she wanted to make sure people coming on the Board knew they had a job to do and that everyone needed to be involved so the responsibility did not fall on one person. She continued that she was proud of the current members of the KPA and they were very dedicated. Councilor Lemont stated that he thought with Ms. Philbrook's leadership, the KPA was going in the right direction but that he was not comfortable with a two year "probationary" period. He continued that he would like to hear from the KPA on a regular basis. Councilor White stated he thought the report was excellent and liked the idea of spreading the workload and agreed with receiving a report regularly. Councilor Denault echoed Councilor White and Councilor Lemont's statements, but wanted to receive a monthly report to Council to keep them updated on what was going on. Councilor Spiller noted she did not think that Council had the ability to put the KPA on "probation" and wished them the best of luck moving ahead. Councilor Pelletier indicated he thought the by-laws and report were quite satisfactory. He asked how the KPA thought they could better interact with the public going forward. Ms. Philbrook responded they were putting together an action item list to keep the public more informed as to what was going on. Councilor Dennett stated he appreciated the work they had done but asked that the by-laws be reviewed thoroughly and that he thought the biggest help to the KPA would be filling the 3 empty seats. Chairperson Thomson said he would be in contact with Ms. Philbrook the following week to set up interviews.

### 10. PUBLIC HEARINGS -

a. (010315-2) The Kittery Town Council moves to hold a public hearing on an application from Shri Ganesh, Inc., 841 Main Street, Reading, MA for a Victualer's License for Kittery Food Mart, 2 Shapleigh Road.

Chairperson Thomson noted this public hearing was advertised in the local, printed media on January 16, 2015. Chairperson Thomson then opened the public hearing and no response being heard, closed the public hearing.

**COUNCILOR SPILLER MOVED TO APPROVE AN APPLICATION FROM SHRI GANESH, INC., 841 MAIN STREET, READING, MA FOR A VICTUALER'S LICENSE FOR KITTERY FOOD MART, 2 SHAPLEIGH ROAD, SECONDED BY COUNCILOR WHITE.**

## UNAPPROVED MINUTES

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**

**7/0.**

b. (010315-3) The Kittery Town Council moves to hold a public hearing and act on proposed amendments to Title 16, Chapter 16.9 of the Kittery Town Code as recommended by the Planning Board.

Chris DiMatteo, Town Planner, came to the podium and stated this public hearing was relative to Chapter 16.9.3.8, expiration of wetlands alteration approval, and had been accidentally omitted from the previous public hearing on Chapter 16.

Chairperson Thomson noted this hearing was advertised in the local, printed media on January 16<sup>th</sup>. Chairperson Thomson then opened the public hearing and no response being heard, closed the public hearing.

**COUNCILOR SPILLER MOVED TO HEREBY ORDAIN AMENDMENTS TO CHAPTER 16, SECTION 16.9.3.8 OF THE KITTEY TOWN CODE, SECONDED BY COUNCILOR WHITE.**

Councilor Dennett went over his issues and noted they had not reached uniformity as was expected. He continued he thought this should be sent back to the Planning Board for revisions. Councilor White responded this item had been edited multiple times and thought they should put it through that evening.

**COUNCILOR WHITE MOVED TO AMEND THE MAIN MOTION TO AMEND ITEM B UNDER 16.9.3.8 AND ITEM C UNDER 16.10.1.4 TO BE ONE IN THE SAME, USING C AS A MODEL, SECONDED BY COUNCILOR SPILLER.**

Councilor Dennett stated he did not agree with the motion and thought at the least, Item D should be included in the motion.

**A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT OPPOSED. MOTION PASSES 6/1.**

**A ROLL CALL VOTE WAS TAKEN ON THE MAIN MOTION WITH COUNCILOR DENNETT OPPOSED. MOTION PASSES 6/1.**

11. Discussion

a. Discussion by members of the public –

Milton Hall came to the podium and stated that he had received a call from one of his tenants who complained the sidewalk plow had pushed the snow from the road into her driveway. He asked that this be addressed.



## UNAPPROVED MINUTES

Norm Albert, DPW Commissioner, came to the podium and stated that he wanted to thank all of the departments for their work during the storm and thanked the residents for staying off the roads. He asked residents to check Channel 22 and the Town website to see if places in town were open to eliminate some of the phone calls they were receiving during storms. Mr. Albert also asked the public to not snowshoe or cross country ski during storms as it was hard for vehicles to see them. He noted he would speak to the sidewalk plow driver about keeping the snow out of people's driveways.

b. Response to public comment directed at a particular Councilor – None

c. Chairperson's response to public comments – None

### 12. UNFINISHED BUSINESS –

(120114-1) The Kittery Town Council moves to ordain proposed amendments to Title 16, Chapters 16.10, 16.2, 16.3, 16.7 and 16.8 of the Kittery Town code as recommended by the Planning Board.

Chairperson Thomson noted these amendments were heard at the December 8<sup>th</sup> meeting and the hearing had been opened and closed but no formal action had been taken. Councilor Dennett indicated it was his opinion that all sections should be voted on separately.

**CHAIRPERSON THOMSON MOVED THAT THE KITTERY TOWN COUNCIL HEREBY ORDAIN AMENDMENTS TO CHAPTER 16.10.9.1.4 OF THE KITTERY TOWN CODE, AND CHANGING LINE 42 TO READ "ONE (1)", SECONDED BY COUNCILOR WHITE.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.**

**CHAIRPERSON THOMSON MOVED THAT THE KITTERY TOWN COUNCIL HEREBY ORDAIN AMENDMENTS TO CHAPTER 16.2.2 OF THE KITTERY TOWN CODE, SECONDED BY COUNCILOR WHITE.**

Councilor Dennett noted that he did not understand these issues and would be abstaining from all further votes on these amendments.

**A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT ABSTAINED. MOTION PASSES 6/0/1.**

**CHAIRPERSON THOMSON MOVED THAT THE KITTERY TOWN COUNCIL HEREBY ORDAIN AMENDMENTS TO CHAPTER 16.3.2.13 OF THE KITTERY TOWN CODE, SECONDED BY COUNCILOR WHITE.**

UNAPPROVED MINUTES

159           **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT**  
160           **ABSTAINED. MOTION PASSES 6/0/1.**

161           **CHAIRPERSON THOMSON MOVED THAT THE KITTERY TOWN COUNCIL**  
162           **HEREBY ORDAIN AMENDMENTS TO CHAPTER 16.7.3.5.6 THROUGH 16.7.3.6.1 OF**  
163           **THE KITTERY TOWN CODE, SECONDED BY COUNCILOR WHITE.**

164           **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT**  
165           **ABSTAINED. MOTION PASSES 6/0/1.**

166           **CHAIRPERSON THOMSON MOVED THAT THE KITTERY TOWN COUNCIL**  
167           **HEREBY ORDAIN AMENDMENTS TO CHAPTER 16.8.28.1 OF THE KITTERY**  
168           **TOWN CODE, SECONDED BY COUNCILOR WHITE.**

169           **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT**  
170           **ABSTAINED. MOTION PASSES 6/0/1.**

171           **CHAIRPERSON THOMSON MOVED THAT THE KITTERY TOWN COUNCIL**  
172           **HEREBY ORDAIN DELETION OF CHAPTER 16.10.9.1.5 OF THE KITTERY TOWN**  
173           **CODE, SECONDED BY COUNCILOR WHITE.**

174           **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT**  
175           **ABSTAINED. MOTION PASSES 6/0/1.**

176    13.    NEW BUSINESS

177           a. Donations/gifts received for Council disposition - None

178           b. (010315-4) The Kittery Town Council moves to receive and discuss the Kittery Port  
179           Authority's Self-Assessment report – See Item 9

180           c. (010315-5) The Kittery Town Council moves to approve the disbursement warrants.

181           **COUNCILOR SPILLER MOVED TO APPROVE THE DISBURSEMENT**  
182           **WARRANTS, SECONDED BY COUNCILOR PELLETIER, WITH ALL IN FAVOR.**  
183           **MOTION PASSES 7/0.**

184           d. (010315-6) The Kittery Town Council moves to schedule a public hearing in  
185           accordance with MRS Title 17 Section 2851 Dangerous Buildings, to consider the condition of  
186           the building located at 40 Old Post Road, Map 8 Lot 25 and to take any appropriate action.

187           **CHAIRPERSON THOMSON MOVED TO SCHEDULE A PUBLIC HEARING IN**  
188           **ACCORDANCE WITH MRS TITLE 17 SECTION 2851 DANGEROUS BUILDINGS, TO**  
189           **CONSIDER THE CONDITION OF THE BUILDING LOCATED AT 40 OLD POST**

UNAPPROVED MINUTES

190 **ROAD, MA9 8, LOT 25 AND TO TAKE ANY APPROPRIATE ACTION ON MARCH 9,**  
191 **2015, SECONDED BY COUNCILOR WHITE.**

192 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
193 **7/0.**

194 e. (010315-7) The Kittery Town Council moves to re-appoint Maryann Place as the  
195 Registrar of Voters until 12/31/16.

196 **COUNCILOR PELLETIER MOVED TO RE-APPOINT MARYANN PLACE AS**  
197 **THE REGISTRAR OF VOTERS UNTIL 12/31/16, SECONDED BY COUNCILOR**  
198 **WHITE.**

199 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT**  
200 **ABSTAINED. MOTION PASSES 6/0/1.**

201 14. COUNCILOR ISSUE OR COMMENT

202 Councilor Pelletier asked about the status of the Comprehensive Plan Update Committee.  
203 Councilor White stated that the Committee had been on hiatus for a couple of months. He  
204 continued that the State's timeframe had run out so it could not be considered an update anymore  
205 and would have to be essentially a whole new plan. Councilor White noted that they were  
206 considering sending out the project to a paid consultant if they could find the funds and asked if  
207 Council would consider allocating the funds or if it could be put into the budget. Councilor  
208 White indicated \$60,000 had been allocated for the last plan but was unsure of what the cost of a  
209 new plan would be. He continued the Committee was eager to move forward but were unclear as  
210 to whether they could produce the type of product needed. Councilor White stated they would  
211 be meeting the next month.

212 15. COMMITTEE AND OTHER REPORTS

213 a. Communications from the Chairperson

214 Chairperson Thomson stated he thought it was time to have the commander or public  
215 works caption for the Navy Yard to come to a Council meeting to discuss the traffic at the Yard.

216 Chairperson Thomson noted there was a workshop scheduled with the CIP Committee  
217 the following Monday at 6:00 and a workshop relative to the Foreside working groups at 7:15.

218 b. Committee Reports – None

219 16. EXECUTIVE SESSION – None

220 17. ADJOURNMENT

UNAPPROVED MINUTES

221           **COUNCILOR PELLETIER MOVED TO ADJOURN, SECONDED BY**  
222   **COUNCILOR SPILLER WITH ALL IN FAVOR. MEETING ADJOURNED AT 8:47**  
223   **P.M.**

224

225

226

## **2015 TENTATIVE AGENDA ITEMS**

### **February 23, 2015**

- Disbursement warrants
- Public hearing – Transfer fire truck
- Liquor License renewal – Loco Coco's

### **March 9, 2015**

- Disbursement warrants
- Hearing – Dangerous Building at 40 Old Post Road, Map 8, Lot 25

### **March 23, 2015**

- Disbursement warrants

### **April 6, 2015 – 6:00 p.m. Special Meeting**

- School Superintendent presents the School Budget

### **April 13, 2015**

- Disbursement warrants
- Town Meeting warrant articles
- Public Hearing – CIP Bond Council sends to Referendum Election June 9<sup>th</sup>
- Preliminary vote on School Budget and vote to schedule May 11<sup>th</sup> for the BVR public hearing

### **April 27, 2015**

- Disbursement warrants
- Manager presents Municipal Budget to Council ?

### **May 4, 2015 – 6:00 p.m. Budget Workshop**

### **May 11, 2015**

- Disbursement warrants
- Public Hearing – Budget Validation Referendum
- Council schedules date to vote on the FY'16 Budget

**May 18, 2015** – 6:00 p.m. Budget Workshop

**May 25, 2015**

- Disbursement warrants

**June 8, 2015**

- Disbursement warrants
- Public Hearings: Town Meeting  
Council votes on FY'16 Budget ?

**June 22, 2015**

- Disbursement warrants



## MEMORANDUM

TO: George Kathios, Nancy Colbert Puff | Town of Kittery, ME

FROM: Mark Thompson | Kleinfelder

DATE: January 30, 2015

SUBJECT: Bid Recommendation  
Route 236 Sewer Extensions Project

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### REVIEW OF BIDS RECEIVED

The Town of Kittery opened bids for its Route 236 Sewer Extensions project on January 6, 2015. Ten general contractors took out bid documents; however, only three general contractors actually bid on the project. The three bids received were in excess of the available construction budget of \$6,233,125. The low bidder's bid (Sargent Corp.) was \$6,534,480. In our opinion, only two of the bids were credible. The third and highest bidder did not understand certain aspects of the work based on the unit prices they bid. We spoke with the two lowest bidders to understand why their bids were higher than the Town's budget. They cited three major areas on which they received higher than expected bids from their sub-contractors:

- Blasting
- Paving
- Horizontal Directional Drilling (HDD)

### OPTIONS FOR PROCEEDING WITH THE PROJECT

The Town has the following options available for proceeding with the project:

1. Re-bid the project to attract additional bids and competition
2. Negotiate with the low bidder to make changes to the bid documents ("Value Engineer") that will lower his costs to complete the project.
3. Suspend portions of the work to accommodate the available budget
4. Combinations of 2 and 3.

### **1) Re-bid the project to attract additional bids**

We evaluated whether re-bidding the project was a viable option by contacting the seven (7) contractors that did not bid to inquire why they didn't bid. Primarily, we were interested in understanding if there were significant design/construction concerns that would make the project considered a high risk to bid. If this were the case, then rebidding with a revised set of bid documents might be a viable approach.

Six (6) of the contractors were successfully contacted. Four (4) of the contractors did not bid because they already have enough work for the 2015 construction season. One (1) of the contractors (Johnson and Jordan) indicated the project was too big for their company to perform the work. The last contractor indicated concern about blasting work in the vicinity of the gas main on Stevenson Road. Based on feedback from these contractors, we concluded that rebidding the project with a revised set of bid documents would not be worth the time and expense involved.

### **2) Value Engineer the project to accommodate the available budget**

Since determining that re-bidding the project is not a viable option, Sargent and Kleinfelder have been collaborating to identify ways to value engineer the design and identify possible cost reductions to the project without sacrificing quality. In addition, Kleinfelder recommends maintaining a 10% contingency budget to account for unforeseen conditions. In order to build in a 10% contingency at the start of the construction, the cost of the construction needs to be reduced from \$6,534,480 (Sargent's bid) to \$5,609,813, or approximately \$925,000. To date, the following value engineering options have been identified:

<b>Description</b>	<b>Approx. Savings</b>
Eliminate requirement for independent seismic monitoring of blasting	\$70,265
Eliminate requirement for weekly paving	\$25,000
Shorten length of HDD bore beneath I-95	\$479,000
Change Shapleigh School sewer connection from gravity to force main (pressure)	\$25,000
Substitute trench paving for to milling and overlay paving Route 236 <sup>(NOTE 1)</sup>	\$40,000
Realign 10" diameter force main in Ranger Drive to eliminate bends and shorten its overall length. <sup>(NOTE 2)</sup>	\$21,500
<b>Total V.E. Cost Reduction (rounded)</b>	<b>\$660,000</b>
<b>Notes:</b>	
1. Changing the approach to paving Route 236 requires approval of the Highway Department.	
2. This item was recently identified by Sargent Corp. and has not been fully analyzed at this time.	



The potential cost reductions identified are best estimates at this time. However, due to the nature of construction, the actual reductions realized at the end of the project are subject to change. The 10% contingency is available should any of the potential reductions identified above not be fully realized.

While the \$660,000 in cost reductions is substantial, the objective savings of \$925,000 is not entirely met. Therefore, some of the work needs to be suspended, as summarized in the next section.

### **3) Suspend portions of the work to accommodate the available budget**

In order to maintain a construction contingency of 10% at this time, an additional \$265,000 in cost reductions are necessary. We recommend that portions of the work be suspended until such time as the majority of the project has been completed, at which time a decision can be made regarding whether or not to reinstate the suspended work using available contingency.

To identify which portions of the work to suspend several criteria were evaluated. Foremost, the construction value of the suspended portions of work should add up to the additional project savings necessary to achieve the 10% contingency. Second, maximize the number of properties that are provided sewer service and "bettered" by the project. Finally, the cost per property bettered was calculated as a means to evaluate which areas to recommend for temporary suspension.

Kleinfelder reviewed the potential for suspending work at the following locations:

Street	Extent of Area Suspended	Approx. Construction Cost	Length (ft)	Cost per ft.	Bettered Properties	Cost per Property
Stevenson	From Rte 236 to #18 Stevenson Rd.	\$ 260,500	1,102	\$ 236	11	\$ 23,690
Stevenson	#23 to #29 Stevenson Rd.	\$ 97,200	468	\$ 208	7	\$ 13,890
Martin	#7 to #33 Martin Rd.	\$ 165,400	777	\$ 213	15	\$ 11,030
Ridgewood	#5 to #7 Ridgewood	\$ 91,700	459	\$ 200	4	\$ 22,930

Based on our evaluation, Kleinfelder recommends that work on Stevenson Road (from Route 236 to #18 Stevenson Road) be suspended from the work until such time that it can either be reinstated (using contingency budget available) or eliminated from the project.

Our rationale for this recommendation is as follows:

1. This location is the highest cost per foot of sewer to construct, indicating that by suspending this portion of the work the project will optimize the overall length of new sewer installed.

2. This location is the highest cost per property, suggesting that sewer connections are made less expensively in areas not suspended.
3. This location is the only single area that achieves the recommended 10% contingency.

## **FINANCIAL SUMMARY**

The following table summarizes the budget for the Route 236 Sewer Extensions project, as proposed to be modified, through the actions described above:

A	Available Construction (only) Budget	\$ 6,233,125
B	Construction Contingency (10% * A)	\$ 623,313
C	Construction Budget (A – B)	\$ 5,609,813
D	Low Bid (Sargent)	\$ 6,534,480
E	Budget Exceedance (C – D)	(\$ 924,668)
F	Value Engineering Savings	\$ 660,000
G	Suspended Work Savings	\$ 260,500
H	Sub-Total of Identified Savings	\$ 920,500
I	Net Construction Budget Surplus (H + E)	(\$ 3,168)

Through a combination of cost reductions and temporary suspension of work the project budget can be satisfied and the great majority of the work can be completed with a 10% contingency budget intact at this time.

## **QUALIFICATIONS REVIEW OF LOW BIDDER**

Kleinfelder reviewed the qualifications of the low bidder, Sargent Corporation. Sargent presented a long list of references for similar related work. The majority of the projects provided were substantially smaller in contract value than this project. However, there were numerous projects with construction values in excess of \$1 million that included work of a similar nature to this project. Based on feedback Kleinfelder obtained its reference check Sargent performs excellent work; is quick and responsive; good with paperwork; and manages the schedule and budget well. In all cases, the references had no reservations for hiring Sargent for a future project (in some cases Sargent had already been hired for additional work).

In addition to the references provided by Sargent, we also inquired with the Maine Turnpike Authority (MTA), who is the permitting body for the HDD sewer crossing beneath I-95. The MTA echoed the comments by the references, suggesting that Sargent is a capable, quality company with good people.

Based on the review of qualifications, Kleinfelder believes that Sargent is qualified and capable of completing this project.

### **RECOMMENDATIONS**

We recommend the Town contract with Sargent Corporation for its bid amount (\$6,534,480), and simultaneously execute Change Order #01 which will implement the value engineering recommendations and suspend a small portion of the project, to bring the contract cost within budget, including a 10% contingency.



# TOWN OF KITTERY

Planning and Development

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Christopher Di Matteo  
Town Planner

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## INTEROFFICE MEMORANDUM

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**TO:** NANCY COLBERT PUFF, TOWN MANGER  
**FROM:** CHRIS. DI MATTEO  
**SUBJECT:** KITTERY FORESIDE COMMITTEE  
**DATE:** FEBRUARY 4, 2015

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As requested I have prepared the following summary of the status of the Kittery Foreside Committee (KFC) has referenced *Title 16.3.2.15, Mixed Use-Kittery Foreside*, included in Kittery's Land Use & Development Code. Staff has researched the background on the KFC and prepared notes for the Planning Board's consideration at their January 22, 2015 meeting. This summary and associated exhibits can be viewed on-line via the Town's website. I have not been able at this point in time solicit information from residents that were committee members during 2005 and 2006.

- 1) May 2, 1995 the Town Council established the Kittery Foreside Committee.
- 2) September 26, 2005 the Town Council voted to disband the Kittery Foreside Committee (KFC) as requested by Ray Smith.
- 3) A design review committee appears to have been a subset of members of the KFC but it is not clear when it was established and in what manner it was undertaking design reviews.
- 4) Sometime in 2005 amendments to the Mixed-Use Kittery Foreside Zone was undertaken and finalized with adoption by Town Council on August 8, 2005.
- 5) At the August 8<sup>th</sup> Town Council Meeting in 2005 Town Manger Carter expressed an issue around the use of the name Kittery Foreside Committee since the KFC had completed its charge and was planning to disband in the near future. The Manger recommended the reference to the KFC in the Code be qualified with the clause "or its replacement" to remedy the apparent issue. This revision was agreed to as the Council minutes show, however, the revision did not make it to the final Code.
- 6) At the December 28, 2005 Town Council meeting it was agreed that the Kittery Foreside Design Committee should be set up by the Planning Board since it was advisory to the Board. Along with the appointment of the committee members by the Planning Board it was also agreed that the committee would be established on a trial basis lasting only one year.
- 7) At the January 26, 2006 Planning Board meeting, the Kittery Foreside Design Committee was established with a unanimous vote.

Staff found nothing in the files regarding a year-end analysis of the committee or any formal reappointment of the committee. In light of a 2005 legal opinion prepared by the Town Attorney regarding the KFC (see attached), I have suggested to the Planning Board that in lieu of a standing committee to perform the role anticipated in Title 16, the Planning has the ability to require a peer-review of a proposed development in the Foreside by suitable professional firm in the same manner that is currently done with CMA Engineers. At the 1/22 Planning Board meeting, the Board made the following action:

*Mr. Lincoln moved to defer the issue of the Kittery Foreside Committee until the Town Manager puts together the consolidated report from the Kittery Foreside Study Group*

*Ms. Kalmar seconded*

*Motion carried: 6-0-0*

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**McEachern & Thornhill**

**Attorneys At Law**

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December 14, 2005

Ms. Heather M. Ross  
Kittery Code Enforcement Officer  
P. O. Box 808  
Kittery, ME 03904-0808

Re: Kittery Foreside Design Standard Review

Dear Heather:

I have reviewed the Kittery Foreside Ordinance with regard to the Design Review provisions. I understand that the Kittery Foreside Committee has been disbanded and a "successor organization" has not been appointed. My first impression of the design standards set out in the Ordinance is that some of them are broadly drafted and sprinkled with subjective concepts. I realize that the design review is only advisory to you or the Planning Board but it has introduced a layer of review to which an applicant will be subjected. Moreover, it adds up to 45 days to the permit-granting process. All these comments are off the point of your inquiry.

You indicate that you now have a request for a building permit before you but there is no entity to review the permit under the Design Review. In light of this, it would be my opinion that you should grant the permit if it complies with the Ordinance. I don't believe that an applicant should be penalized with regard to an advisory review when the legal mechanism for

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Duncan A. McEachern & Dan W. Thornhill

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Ms. Heather M. Ross

Re: Kittery Foreside Design Standard Review

December 14, 2005

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that review is yet to be established. Moreover, the Town is protected through your review of the permit request.

Should you need anything more on this, please let me know.

Very truly yours,



Duncan A. McEachern

DAMcE/cn

Copy to

Mr. James Noel

Mr. Jonathan L. Carter

\\Opinions\Foreside

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